

**ORAL ARGUMENT NOT YET SCHEDULED**

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

State of North Dakota,

Petitioner,

V.

United States Environmental Protection Agency,

Respondent.

No. 17-1014  
(and consolidated cases)

**RESPONDENT EPA'S UNOPPOSED MOTION  
TO EXTEND ALL INITIAL CASE MANAGEMENT DEADLINES**

Respondents United States Environmental Protection Agency and Catherine McCabe, Acting Administrator, United States Environmental Protection Agency (collectively “EPA”) respectfully request that the Court extend all initial filing deadlines in these consolidated cases by five weeks, or thirty-five days, for both Petitioners and Respondent. Counsel for Petitioners and Movant-Intervenors for Respondents have been contacted and have authorized EPA to represent that they do not oppose this motion. In further support of this Motion, Respondents state:

1. These consolidated petitions challenge an EPA action under the Clean Air Act denying petitions for administrative reconsideration of EPA's emission

guidelines for greenhouse gas emissions by electric utility generating units.<sup>1</sup> Notice of this action was published in the Federal Register at 82 Fed. Reg. 4864 (Jan. 17, 2017). Under the judicial review provision of the Clean Air Act, 42 U.S.C. § 7607(b), petitions for review of this action may be filed for a 60-day period following Federal Register publication, or until March 20, 2017.

2. On January 25, 2017, the Court issued an initial scheduling order requiring, among other things, procedural motions to be filed by February 24, 2017, and dispositive motions and the certified index to the administrative record to be filed by March 13, 2017.

3. Because additional timely petitions for review of the EPA action at issue in this case may be filed after the initial filing deadlines set forth in this Court's January 25, 2017 Order, Respondents seek a five-week (thirty-five day) extension of these deadlines so that these deadlines will fall beyond the period for filing timely petitions for review. If this motion is granted, procedural motions and other filings currently due on February 24, 2017 would be due on March 31, 2017, and dispositive motions and other filings currently due on March 13, 2017, would be due on April 24, 2017.

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<sup>1</sup> Challenges to EPA's underlying emission guidelines are separately pending before the Court. See West Virginia v. EPA (Case No. 15-1363 and consolidated cases). Oral argument in West Virginia was presented before an initial en banc panel on September 27, 2016.

4. The requested extensions will promote judicial economy by allowing the parties and the Court time to review and consider any additional petitions for review prior to deciding what motions or orders are appropriate in this case, including any motions or orders pertaining to consolidation and scheduling.

For the foregoing reasons, EPA respectfully requests that the Court issue an Order extending by five weeks all of the initial filing deadlines set forth in this Court's Order of January 25, 2017.

Respectfully submitted,

BRUCE S. GELBER  
Deputy Assistant Attorney General

/s/ Eric G. Hostetler  
ERIC G. HOSTETLER  
CHLOE H. KOLMAN  
U.S. Department of Justice  
Environmental Defense Section  
P.O. Box 7611  
Washington, D.C. 20044  
Phone: (202) 305-2326  
Email: eric.hostetler@usdoj.gov

Dated: February 17, 2017

**CERTIFICATE OF COMPLIANCE**

I hereby certify that this motion complies with the requirements of Fed. R. App. P. Rule 27(d)(2) because it contains 433 words, according to the count of Microsoft Word and therefore is within the word limit of 5,200 words.

/s/ Eric G. Hostetler

ERIC G. HOSTETLER

Counsel for Respondent EPA

Dated: February 17, 2017

**CERTIFICATE OF SERVICE**

I certify that the foregoing MOTION TO EXTEND ALL INITIAL CASE MANAGEMENT DEADLINES was electronically filed today with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit through the Court's CM/ECF system. I further certify that a copy of the foregoing document was today served electronically through the court's CM/ECF system on all registered counsel for Petitioners and Intervenors.

/s/ Eric G. Hostetler  
ERIC G. HOSTETLER  
Counsel for Respondent EPA

Dated: February 17, 2017